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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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7590 11/28/2003

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EXAMINER

ABRAMS, NEIL

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2839

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635051

Applicant(s)

Examiner

Group Art Unit

2839

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 (TWO) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 8-25-03
- ☐ This action is **FINAL**.
- ☒ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 140-196 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 140-196 is/are allowed.
- ☒ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 2839

The terminal disclaimer is proper and has been recorded.

The parent case paragraph is objected to as improper since this case and SN 09/251,391 include no inventor in common. See 35 USC 120 which requires a case to name at least one same inventor to be labeled a continuation or continuation-in-part.

Applicant should confirm that other listed parent cases meet this requirement. Also all listed S.Ns must be updated where possible.

Claims 140-196 are allowed.

The following is an examiner's statement of reasons for allowance: Claim 140, line 12 calls for "a channel extending through a wall of the recess to form an opening". Claims 155, 172, 184 all include limitations similar in scope to that of claim 140, line 12. These limitations require an opening through the wall, see fig. 21, openings 328 or fig. 21A, wall with through opening covered by sheet 342. No such feature in the context of these claims is taught or fairly suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

This application is in condition for allowance except for the following formal matters: reasons noted above.

Art Unit: 2839

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.


A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

It appears that even apart from related case 09/251,391, applicant is entitled to priority *discloses invention of this case and* based on SN 09/024,885 which has adequate filing date to overcome use of Patent No. 5,773,332 a prior art.

Any inquiry concerning this communication should be directed to N. Abrams at telephone number 308-1729.

Abrams/ek

11/25/03


NEIL ABRAMS
EXAMINER
ART UNIT 322